

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KLINTON MICHAEL KING,

No. C-12-5140 TEH (PR)

Petitioner,

ORDER DENYING PETITIONER'S
REQUEST FOR APPOINTMENT OF
COUNSEL

v.

L.S. McEWEN, Warden,

Doc. #3

Respondent.

_____ /

On October 3, 2012, Petitioner filed this pro se petition for a writ of habeas corpus on October 3, 2012. Petitioner requests that the Court appoint counsel to assist him in preparing his traverse (Doc. #3).

Petitioner's request for appointment of counsel is DENIED. The Sixth Amendment right to counsel does not apply in habeas corpus actions. Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir. 1986). The district court may appoint counsel to represent a habeas petitioner if "the court determines that the interests of justice so require . . ." 18 U.S.C. § 3006A(a)(2)(B). Unless an evidentiary hearing is required, the decision to appoint counsel is within the discretion of the district court. Bashor v. Risley, 730 F.2d

1 1228, 1234 (9th Cir.1984); Rule 8(c), 28 U.S.C. foll. § 2254.
2 Petitioner has not demonstrated how justice requires
3 appointment of counsel.

4 Further, at this stage of the proceedings, the Court
5 is not in a position to determine whether an evidentiary
6 hearing will be required. If, during its review of the merits
7 of the petition, the Court determines that further fact-
8 finding is required, the Court will decide whether to hold an
9 evidentiary hearing or whether the facts can be gathered by
10 way of mechanisms short of an evidentiary hearing, such as
11 supplementation of the record with sworn declarations from the
12 pertinent witnesses. See Downs v. Hoyt, 232 F.3d 1031, 1041
13 (9th Cir. 2000).

14 Therefore, Petitioner's request for counsel is
15 denied. Should the circumstances change at a later stage of
16 the litigation, the Court will reconsider this decision on its
17 own initiative.

18
19 IT IS SO ORDERED.

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21 DATED 11/05/2012



22 THELTON E. HENDERSON
23 United States District Judge
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